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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,854	12/16/2003	Jeremy M. Ford	16356.826 (DC-05328)	9080
27683 7590 10/20/2008 HAYNES AND BOONE, LLP 901 Main Street Suite 3100 Dallas, TX 75202				
EXAMINER				
CLEARY, THOMAS J				
ART UNIT		PAPER NUMBER		
2111				
MAIL DATE		DELIVERY MODE		
10/20/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/736,854

Applicant(s)

FORD ET AL.

Examiner

Thomas J. Cleary

Art Unit

2111

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Thomas J. Cleary/
Patent Examiner, Art Unit 2111

1.
Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments provided on Pages 5-7 are substantially similar to those provided in the previous response. These arguments have been previously addressed by the Examiner in the Office Action mailed 14 August 2008. Applicant has argued that Torres is not applicable as prior art and cannot be relied upon in the rejections (See Page 8). In response, the Examiner notes that Torres was not relied upon in any of the rejections, but was relied upon to disclose features of S/PDIF, which was known prior to Applicant's filing date. References cited to show a universal fact, such as that the characteristics of a prior art product were known, need not be available as prior art before Applicant's filing date. In re Wilson, 311 F.2d 266, 135 USPQ 442 (CCPA 1962). In re Koller, 613 F.2d 819, 823 n.5, 204 USPQ 702,706 n.5 (CCPA 1980). In re Hogan, 559 F.2d 595, 605 n.17, 194 USPQ 527, 537 n.17 (CCPA 1977). See MPEP 2124. Applicant has argued that RCA connections are two conductor connections, and not single conductor connections (See Page 8). In response, the Examiner notes that, as indicated in the previous Office Action, it is notoriously well known in the art that an RCA connector transmits data over only one conductor. The "outer conductor" is a grounded shield which transmits no data. Thus, in the combination, one of ordinary skill would recognize that, as S/PDIF transmits data over only a single conductor, a single pin in a multipin connector would be used to transmit S/PDIF data. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As previously indicated, were S/PDIF to require multiple conductors, then only one audio pin of the multi-pin docking connector could not be coupled to the audio coder and decoder via a unidirectional S/PDIF link, and Applicant's claimed invention would be inoperable. Applicant has argued that the prior response did not argue that S/PDIF does not use a single conductor (See Page 9). In response, the Examiner notes that Applicant's arguments are clearly directed to S/PDIF requiring two conductors (See Pages 7 and 8 of the response dated 2 October 2008). Applicant's arguments that there is no motivation to combine the references have been previously addressed by the Examiner in the Office Action Mailed 14 August 2008.